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CIVIL SERVICE REFORM

A Guide to Chapter 767 of the Acts of 1981

Kevin F. Kiley
Editor

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**Prepared by the Institute for Governmental Services,
University of Massachusetts and the Special
Commission on Civil Service**



The Commonwealth of Massachusetts
SPECIAL COMMISSION ON CIVIL SERVICE

Room 40 • State House • Boston, MA 02133

SEN. SAMUEL ROTONDI
Senate Chairman

REP. NICHOLAS J. BUGLIONE
House Chairman

(617) 727-9206
727-8822

May 1, 1982

Following months of discussion and exchange, the Civil Service Reform Bill became law on January 4, 1982. The energy of those days is now re-focused on the new challenge of implementing the important changes in state civil service.

With a goal of restoring manageability, efficiency, and pride in our civil service system, the Special Commission seeks to continue the cooperation among legislators, administrators and state municipal officials and employees.

Hopefully, this manual will assist state and municipal officials in understanding the new law and will be a valuable management resource.

The Special Commission also wishes to gratefully acknowledge Professor Maurice Donahue and the Institute for Governmental Services at the University of Massachusetts for their expertise and assistance in preparing this manual and the training workshops.

Sincerely,

Samuel Rotondi
Senator Samuel Rotondi
Senate Chairman

Nicholas J. Buglione
Representative Nicholas J. Buglione
House Chairman

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THE INSTITUTE FOR GOVERNMENTAL SERVICES, founded in 1970, is a linking agency between the University of Massachusetts and state and local governments in the commonwealth. It brings academic expertise and practical experience to bear on issues affecting these state and local agencies through the provision of training, technical assistance, publications and research.



Maurice A. Donahue, Director
University of Massachusetts
250 Stuart Street
Boston, MA 02116

Arthur W. Eve, Associate Director
University of Massachusetts
Middlesex House
Amherst, MA 01003

Maureen McCarthy
Administrator of Program
and Financial Affairs
University of Massachusetts
100 Arlington Street
Boston, MA 02125

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We also wish to thank the staff of the Special Commission, the House and Senate Clerk's and Counsel's Offices, whose cooperation was invaluable, and the state and local officials who assisted in coordinating public hearings throughout the Commonwealth.

Special appreciation is extended to those individuals who submitted testimony to the Commission and the Joint Committee on Public Service: state and local officials, representatives of state and municipal agencies, labor and management organizations, public interest groups, and interested citizens, without whom our work would have been incomplete.

- Senator Samuel Rotondi and Representative Nicholas J. Buglione
Chairmen of the Joint Committee on Public Service

Kevin F. Kiley is Counsel for the Joint Committee on Public Service and Executive Director of the Special Commission on Civil Service. The Institute is indebted to him for the work he has done in preparing this manual to assist the state and local officials of Massachusetts in understanding Chapter 767.

- John E. Burke
Institute for Governmental Services



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History of the Massachusetts Civil Service Law

In 1884, the Massachusetts legislature enacted the Commonwealth's civil service law, and was the second state to pass such a statute. Since its enactment, the law has undergone numerous amendments and revisions as well as judicial and administrative modifications. Criticism of the Massachusetts Civil Service Law itself and the operating procedures associated with its administration are not new. There have been many studies and recommendations to improve the system. The scope of these previous undertakings has ranged from investigating one or two specific issues to studying ways to completely revamp the system.

Beginning with a Special Commission in 1938 and continuing to the present, certain issues have consistently been identified as legislative and administrative shortcomings. Problems of long-standing concern included recruitment, examination procedures, delays in each step of the process, provisional appointments, absolute veterans' preference, the probationary period, minority hiring, and the perpetual lack of adequate funding for its administration.

The 1967 Special Commission on Civil Service conducted a comprehensive appraisal of civil service and other public personnel-related practices. Major revisions of the Commonwealth's personnel system were recommended. One of the Special Commission's principal recommendations was the creation of a single agency responsible for the administration of all public personnel matters. In Chapter 835 of the Acts of 1974, the former Division of Civil Service and Bureau of Personnel and Standardization were merged to form the Division of Personnel Administration within the Executive Office of Administration and Finance.

In the late 1970s, criticism of the Massachusetts Civil Service System continued to mount focussing on several areas. The civil service statute, Chapter 31 of the General Laws, is presently extremely detailed and precise, which, in many instances, creates procedural obstacles which inhibit the exercise of reasonable management judgment with the result being that flexibility of appointing authorities was curtailed by the existence of such cumbersome procedures. Another criticism focuses on the administration of the civil service system. Evidence has been cited concerning insufficient funding, personnel vacancies in the Division of Personnel Administration, excessive use of provisional employees by state agencies, delays in Civil Service Commission proceedings, the possibility of court intervention, and paper-flow requirements associated with personnel transactions as just some of the factors which created the problems in the personnel system. As a result of all these criticisms, various interested parties and members of the General Court filed legislation in 1979 to create a Special Commission to review the total administrative and statutory provisions of the Massachusetts Civil Service System with the intent of making serious and long awaited reforms of this system.

Review of the Work of the Special Commission on Civil Service

The Special Commission on Civil Service was created under Chapter 3 of the Resolves of 1979. The mandate of the twenty-one member Commission was to review civil service practices for the purpose of making recommendations to improve public personnel management in the Commonwealth.

To assist in this undertaking, the Commission engaged the accounting and consulting firm of Ernst & Whinney to provide an objective analysis of the current civil service system in Massachusetts and to make recommendations for improvements in the system. A detailed report by Ernst & Whinney was submitted to the Special Commission in May 1980 and served as a reference for the membership in its deliberations. In addition, the Commission held more than twenty public meetings in which they heard testimony from members of the Governor's Management Task Force, union representatives, members of organizations representing such diverse groups as minorities, women, veterans, the handicapped, members of the executive branch, municipal officials, as well as representatives of public interest groups interested in public personnel. Experts from the federal civil service system also appeared before the Commission. In addition, the Special Commission conducted seven regional hearings to solicit public and local officials' comments concerning the present law and its administration.

During the Commission's deliberations, a number of appointing authorities stated that the existing civil service statute and rules acted as constraints that are excessive, resulting in the need for administrative juggling and manipulation. The Commission found one tactic used to accomplish this manipulation may be evidenced by excessive use of provisional appointments to fill civil service positions. Currently, more than 18,000 classified positions in state service have been filled by provisional employees. As of mid-January 1980, the Division of Personnel Administration reported that 7,474 permanent state civil service employees were serving provisionally in positions with higher grades. While this result may constitute a technical violation of the law, appointing authorities justify the high number of provisional appointments based on excessive delays in receiving certified eligible lists and the lack of flexibility in making appointments.

The Special Commission on Civil Service believed that the Massachusetts Civil Service System can and should serve many useful purposes for all concerned. A merit system embodies sound personnel management principles, including:

- Selection on the basis of qualification and merit. The key to a successful merit system is appointment of the best qualified.

- "Equal pay for equal work." Compensation should be based on job duties and responsibilities.
- Elimination of political influences and the prevention of discrimination. All citizens should have access to governmental employment, and employees should be protected from arbitrary and capricious treatment.
- Establishment of the positive use of human talents, including the most effective use of management resources.

The Commission felt it was not sufficient if the civil service law solely protected public sector employees from patronage and political harassment. Because of the increased role of government, it was especially important for government to perform effectively and economically particularly in light of enactment of Chapter 580 of the Acts of 1980 (Proposition 2½). The civil service system must also ensure that the best qualified individuals are employed and that personal skills are sufficiently developed and utilized. It must deal with prospective and tenured employees on the basis of their knowledge and skills. It must also strive to promote on the basis of overall fitness for the job and to provide career opportunities through reasonable security and potential for advancement. The Commonwealth's civil service system should provide performance accountability and base advancement and compensation on the basis of prescribed standards.

Other states, too, recognize the importance of managing personnel resources in an effective and efficient manner. Public personnel reforms, some quite modest, others extremely detailed, are being developed and implemented on a continuing basis in other states. At the time the initial recommendations of the Special Commission were made at least ten other states were involved in civil service reform efforts similar to those in Massachusetts, and several others were in the process of suggesting overhauls of their entire systems. Many parallel the Federal Civil Service Reform Act of 1978.

The independent report prepared for the Special Commission by Ernst & Whinney identified a number of deficiencies in the existing statute governing the Commonwealth's civil service system. Those deficiencies in the civil service statute were:

- Embodies much of the late nineteenth century emphasis on a structured, legalistic approach to civil service administration to prevent tampering by those disposed to corrupt the merit system.
- Concentrates on procedural aspects of personnel management, thereby reducing operating flexibility.
- Requires that appointing authorities adhere to procedural safeguards for management to justify disciplinary action against employees.

- Includes amendments and preference sections which reflect the legislature's desire to modify the statute to accomodate interest groups and changing social conditions.

In addition, Ernst & Whinney found that other state laws, judicial decisions, and administrative actions have contributed to a large body of administrative law affecting the civil service system. For example, collective bargaining, employee benefits, and comprehensive municipal personnel by-laws affect the administration of civil service without being part of the statute.

After a careful review of the recommendations of the consultant's report, numerous lengthy discussions and various legislative recommendations, the Special Commission in the spring of 1980 began drafting the general provisions of its recommendations. An interim report (H.6796) was submitted to the General Court in July 1980 but as a result of the lateness of the filing of the proposed legislation there was no action taken during the session.

In the fall of 1980 and the winter of 1981, a second series of regional public hearings and working meetings were held by the Special Commission on the first interim report (H.6796). The Special Commission submitted a second interim report in December 1980 (H.1000), which was referred to the Joint Public Service Committee. The Commission's second interim report was amended and redrafted by the Joint Committee and in March it was reported favorably out of Committee with a new number attached to it (H.6500).

The Joint Committee's report included a number of proposed changes in the Massachusetts civil service law which were vigorously debated on the floors of the House and Senate. One specific issue which generated a great deal of debate was the Special Commission's recommendation that the veterans' preference provisions be modified to a 10 - 5 point system and the absolute preference in reductions in force be eliminated for a strict seniority system. After a lengthy debate, the House rejected these proposals on a roll call vote of 125 - 30. As a result of this and the necessary modification of other sections of the proposed legislation, a new draft (H.7258) was adopted and sent to the Governor. On January 4, the Governor signed the legislation into law as Chapter 767 of the Acts of 1981.

Summary of Legislative Recommendations Proposed by the Joint Committee on Public Service

The provisions contained in Chapter 767 are aimed at providing a number of administrative and operative improvements in the Massachusetts Civil Service System. The Special Commission believes that Chapter 767 provides a two-pronged approach to solving the complex personnel management issues confronting the Commonwealth. Chapter 767 proposes to:

- Modernize the state's overall civil service system for the benefit of the Commonwealth and of those communities that are not yet ready to assume full personnel responsibilities.
- Provide a local option for full decentralization of the existing civil service responsibilities. This would allow maximum flexibility for those cities and towns choosing this option to design and manage a local merit system, subject to state standards and oversight.

The general proposals recommended by the Special Commission and adopted in Chapter 767 contain the following specific components:

- Elevates the Division of Personnel Administration to Department status within the Executive Office of Administration and Finance. The new Department of Personnel Administration would be made up of three divisions with three bureaus within each division. (Sections 1, 3 and 4 of Chapter 767)
- Requires the Division of Hearings Officers to assign two full-time hearings officers to the control and supervision of the Civil Service Commission to expedite the hearing process. The Civil Service Commission would also be required to conduct regional hearings throughout the Commonwealth. (Section 2 of Chapter 767)
- Allows the Personnel Administrator to enter into agreements with the federal government and with private agencies to conduct training programs for the state managerial personnel. (Section 7 of Chapter 767)
- Shifts rule-making authority from the Civil Service Commission to the Personnel Administrator. The Commission may exercise veto power if such rules do not conform with merit principles. (Section 12 of Chapter 767)
- Directs the Personnel Administrator to establish a performance evaluation system and to determine, in conjunction with repre-

sentatives of labor and management, the weight to be given to performance evaluations in promotional decisions. These provisions also outline employee appeal procedures for performance evaluations. (Section 12 of Chapter 767)

- Allows the Personnel Administrator to expand the existing delegation program by delegating certain civil service functions to the various state agencies of the Commonwealth. The Department will be required to develop an internal audit capacity to monitor compliance with the civil service laws by the state appointment authorities. (Section 14 of Chapter 767)
- Allows the Personnel Administrator to establish a schedule of fees for non-promotional examinations and establishes provisions which allow for a waiver of such fees in instances where hardships exist. (Section 14 of Chapter 767).
- Provides that certain positions which require a license or certificate from a national organization may be exempt from a written examination. (Section 16 of Chapter 767)
- Clarifies the right of any employee to one route of appeal in any disciplinary action through either the grievance procedure outlined in the employee's contract or to the Civil Service Commission, but not both. (Sections 19 and 20 of Chapter 767)
- Directs the Personnel Administrator to establish a career management program as a pilot program in three state agencies. Under the provisions of this program, there will be greater flexibility for appointing authorities to establish salary levels and working conditions for managerial employees. (Sections 22 and 25 of Chapter 767)
- Authorizes the Personnel Administrator to establish a procedure for the certification of provisional employees, who have served in their position for at least six months prior to June 1, 1981, to permanent positions by the use of qualifying examination. (Section 26 of Chapter 767)
- Section 24 of Chapter 767 of the Acts of 1981, establishes a new Chapter 31A, which allows a local option to decentralize the existing state administered civil service system to include the following:
 - The option to establish a local merit system totally administered at municipal level with authority to conduct examinations, provide selection procedures, and make appointments. All examinations for public safety positions, however, would continue to be administered by the Commonwealth. The optional provisions are subject to local adoption of a personnel ordinance, subject to approval by the Personnel Administrator as conforming with basic merit principles. Final acceptance is subject to passage of a referendum by the community.

- Requires that each municipality create a local merit system and appoint a local personnel director experienced in personnel management.
 - Establishes a three member Local Merit Appeals Board (LMAB) to act as an appellate board in municipal employee disciplinary matters.
 - Allows existing employees covered under Chapter 31 of the General Laws the option to appeal disciplinary matters and issues involving the overall validity of an examination to either the Civil Service Commission or the LMAB, but not both such boards.
 - Requires that the Department of Personnel Administration shall annually conduct performance audits of local merit systems and establishes procedure by which the Personnel Administrator may penalize any community which violates basic merit principles.
- Extends the Special Commission on Civil Service until December 31, 1983 to act as an oversight body on the recommendations made in the proposed legislation. (Section 30 of Chapter 767)

Summary of Administrative Recommendations of the Joint Committee on Public Service

In addition to the provisions enacted in Chapter 767 of the Acts of 1981, there were a number of administrative recommendations which the Special Commission on Civil Service believes could be implemented to improve the overall efficiency and operational procedures of the Massachusetts Civil Service System. While a number of these recommendations will require an additional appropriation in the budget of the Department of Personnel Administration, some either have begun to be implemented or will be commenced shortly. It is important to note that these proposed administrative changes are subject to an annual appropriation and are discretionary on the part of the Personnel Administrator, but the Special Commission firmly believes that they should be implemented as soon as possible and will do all within its power to support the necessary appropriations.

The administrative recommendations of the Special Commission on Civil Service can be summarized as follows:

- Department of Personnel Administration should develop new procedures and programs for the recruitment, employee training and merit salary administration that will enhance the image and professionalism of public sector employment.
- All personnel-related actions should be automated as soon as practicable. At the present time, a personnel management information system (OPMIS) is being developed in the Department of Public Health and should be used as a model for the automation of the Commonwealth's personnel recordkeeping system. This system should be completed as soon as possible and expanded to all of the agencies of the Commonwealth.
- The existing skills bank within the Department of Personnel Administration should be strengthened and should be tied to the Commonwealth's automated personnel system. The existing training and development programs between the Bureau of Employee Development and the Institute for Governmental Services at the University of Massachusetts should be expanded and the levels of funding should be increased.
- The Department in conjunction with the various state agencies, should expand programs which provide for the increased use of tuition reimbursed training programs and courses at the various state colleges and universities of the Commonwealth, for managerial and non-managerial employees. As a result of enactment of Chap-

ter 769 and Chapter 699 these programs can be commenced immediately, contingent upon funding.

- Special recruitment programs should be aimed at community centers, neighborhood organizations, and religious organizations to establish outreach practices which encourage public employment in all segments of the Commonwealth.
- The recently completed reclassification studies reducing the Commonwealth's present 2,800 job titles to a more manageable 800 job titles should be adopted by the General Court.
- Upon the adoption of the reclassification studies, the major responsibility for maintenance of the new classification plan for the Commonwealth should be placed at the agency level. The Department of Personnel Administration will assume a more supportive and technical role in any new reclassification effort at the agency level.
- The latest state of the art in computer operations should be implemented in the testing and certification procedures to reduce the time period for the establishment of certified civil service lists. This recommendation is contingent on availability of adequate resources.
- The Department of Personnel Administration should expand the use of publicizing examinations through the newspapers and other types of media. All examinations should be conducted at regular times and locations where the applicants can be assured they will be held. Externally produced examinations should be used when economically sound if they can be demonstrated to have sufficient reliability and relevance to the position to be tested. The Personnel Administrator should develop methods for union and employee input into the Commonwealth testing programs.
- The Department of Personnel Administration should expand the development of training sessions for supervisors and managerial personnel in personnel-related procedures. Standard operating procedures for the state's managerial personnel should be developed in a manual format for procedural and administrative functions. Existing programs which provide for employee exchanges with the private sector should be expanded and funded. At the present time the Governor's Management Task Force has initiated such a program which could be further expanded upon with the use of the Career Management Service.
- When the performance evaluation program outlined in Chapter 767 is commenced, the Department will provide technical expertise and coordinate the implementation of the performance evaluation system at the agency level.

- The Department of Personnel Administration will establish an audit compliance bureau to oversee the numerous personnel-related activities that are decentralized to the various state agencies.
- The Department of Personnel Administration will establish training and technical assistance programs for municipal personnel directors for decentralized civil service systems.

Summary

In closing it should be clearly understood that the members of the Special Commission on Civil Service and the Joint Committee on Public Service look to the enactment of Chapter 767 of the Acts of 1981 as just the first step in the reformation of the Massachusetts Civil Service System. With the enactment of Chapter 580 of the Acts of 1980 (Proposition 2½) both state and local governments in Massachusetts will be required to provide more efficient and responsive services with the diminishing fiscal resources. As a result of this, the Joint Committee on Public Service has reported out legislation H.2850 which will help defray the cost of a local community adopting a decentralized personnel system.

H.2850 which was sponsored by Representatives Nicholas J. Buglione and Thomas R. Lussier would establish a program within the Department of Personnel Administration with the initial appropriation of two hundred thousand dollars being authorized for local grants of up to fifty per cent of start up cost for any community adopting a decentralized personnel system. This proposed legislation would allow those communities adopting Chapter 31A to offset the initial start up costs of these new personnel systems and allow for a smooth transition in the shifting of administrative responsibilities from the Department of Personnel Administration to the local governments.

Under the provisions of Chapter 767, the Massachusetts General Court has clearly expressed a desire that the Special Commission for Civil Service continue the examination and review of our civil service system and more administrative and legislative issues will continue to be addressed over the next three years.

Chapter 767 of the Acts of 1981

with Analysis

Analysis

IMPORTANT

The section by section analysis below attempts to provide a general review of those statutory changes adopted in Chapter 767 of the Acts of 1981 without restating those existing provisions of the Massachusetts General Laws which were not modified.

EMERGENCY PREAMBLE

Provides that Chapter 767 of the Acts of 1981 will take effect immediately for public convenience.

SECTION 1

PRIOR LAW: Section 4A of Chapter 7 of the General Laws creates the various divisions, bureaus, and sections within the Executive Office of Administration and Finance. Within the organizational structure of the Executive Office of Administration and Finance is the Division of Personnel Administration, directed by the Personnel Administrator who shall have the rank of Deputy Commissioner. The Personnel Administrator shall be appointed by the Commissioner of Administration and Finance, with the prior written approval of the Governor, from a list of three names submitted by the majority vote of all members of the Civil Service Commission. The Personnel Administrator shall be a person familiar with the principles of and experienced in personnel administration and shall serve for a term of four years, which shall end June 30th of the first year of the term of the Governor.

EFFECT OF CH. 767: Amends the provisions of Section 4A of Chapter 7 of the General Laws by changing the existing Division of Personnel Administration to the "Department of Personnel Administration" and upgrades the title of the Personnel Administrator to a "Commissioner" under the Secretary of Administration and Finance.

SECTION 2

PRIOR LAW: Section 4A of Chapter 7 of the General Laws provides that there shall be within the Executive Office of Administration and Finance a Division of Hearing Officers under the direction of a Chief Hearing Officer, who shall be appointed by the Secretary of Administration and Finance with the approval of the Governor. The Chief Hearing Officer shall hear, or assign for hearings, appeals filed pursuant to Section 36 of Chapter 6A and such appeals assigned for hearings pursuant to Sections 42 and 43 of Chapter 31. (Civil Service Commission hearings.)

EFFECT OF CH. 767: Amends Section 4H of Chapter 7 of the General Laws to direct the Chief Hearing Officer to assign two full-time hearing officers to work under the supervision and control of the Civil Service Commission to expedite civil service appeals.

Chapter 767

THE COMMONWEALTH OF MASSACHUSETTS

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1981

Acts and Resolves

MICHAEL JOSEPH CONNOLLY, State Secretary

Chap. 767. AN ACT PROVIDING FOR CERTAIN IMPROVEMENTS OF THE PERSONNEL ADMINISTRATION IN THE COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase the efficiency and effectiveness of personnel management within the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 4A of chapter 7 of the General Laws, as most recently amended by section 2 of chapter 579 of the acts of 1980, is hereby further amended by striking out, in lines 7 and 8, the words "division of personnel administration, in charge of a personnel administrator, who shall have the rank of deputy commissioner" and inserting in place thereof the words:- department of personnel administration, in charge of a personnel administrator, who shall have the rank of commissioner.

SECTION 2. The first paragraph of section 4H of said chapter 7 is hereby amended by striking out the third sentence, as most recently amended by section 2 of chapter 393 of the acts of 1978, and inserting in place thereof the following two sentences:- He shall hear, or assign for hearing, appeals filed pursuant to section thirty-six of chapter six A and shall make available not less than three full-time hearings officers or the equivalent thereof, to hear appeals assigned pursuant to sections forty-two and forty-three of chapter thirty-one. Said hearings officer shall serve under the direction, supervision and control of the commission and shall be utilized to expedite appeals of the commission.

SECTION 3. Said chapter 7 is hereby further amended by striking out section 4I, as most recently amended by section 27 of chapter 872 of the acts of 1977, and inserting in place thereof the following section:-

Section 4I. There shall be within the executive office for administration and finance, but not under its supervision or control, a commission to be known as the civil service commission,

Analysis

SECTION 3

PRIOR LAW: Section 4A of Chapter 7 of the General Laws provides that there shall be within the Executive Office of Administration and Finance, a Civil Service Commission, consisting of five members, one of whom, because of vocation, employment or occupation, can be classified as a bona fide representative of labor. The Governor shall, from time to time, designate one of the members as the Chairman and upon the expiration of the term of office of a Commissioner, his successor shall be appointed for five years. The Chairman of the Commission shall receive a salary of \$18,556 and each other member shall receive a salary of \$17,381.

EFFECT OF CH. 767: Amends Section 4I of Chapter 7 of the General Laws to require that the Civil Service Commission shall, in its rules of practice, provide for hearings to be conducted throughout the Commonwealth.

SECTION 4

PRIOR LAW: Section 4J of Chapter 7 of the General Laws provides, within the Division of Personnel Administration, there shall be a Bureau of Classification, headed by a Classification Director; a Bureau of Examination, headed by an Examination Director; a Bureau of Employee Development, headed by a Director of Employee Development; a Bureau of Planning and Research, headed by a Director of Planning and Research; and a Bureau of Personnel Records, headed by a Director of Personnel Records. Each of the said directors shall be appointed by the Personnel Administrator, with the prior written approval of the Commissioner and may be removed in a like manner.

EFFECT OF CH. 767: Amends Section 4J of Chapter 7 of the General Laws to reorganize the existing organizational structure of the new Department of Personnel Administration. Under the reorganization, there would be three separate divisions created as follows: a Division of Management Services, a Division of Information Services, and a Division of Technical Services. Each new division will be headed by a Deputy Commissioner. Within each new division of the Department of Personnel Administration, there shall be no more than three bureaus, which shall each be headed by a director.

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consisting of five members, one of whom because of vocation, employment, occupation or affiliation, can be classified as a bona fide representative of labor.

Upon the expiration of the term of office of a commissioner of the civil service commission, his successor shall be appointed by the governor for five years; provided, however, that if such successor is not appointed within sixty days of the expiration of the term of office of a commissioner, the said commissioner shall be deemed to be reappointed to a full term. Not more than three of such members of said commission shall be members of the same political party, and, of the members of said commission who are enrolled as members of a political party on the voting list used at the primaries, not more than a majority of such members shall be of the same political party. The governor shall, from time to time, designate one of the members as chairman. The chairman shall receive a salary of eighteen thousand five hundred and fifty-six dollars and each member shall receive a salary of seventeen thousand three hundred and eighty-five dollars. The commissioners shall receive their travel and other necessary expenses incurred in attending meetings.

Meetings of the commission shall be held at such time and location as it may determine and the commission shall meet upon the request of the personnel administrator. The commission shall in its rules of practice and procedure provide for the conduct of hearings throughout the commonwealth when it would best serve the interested parties.

Said commission or any member thereof, or the personnel administrator, may require in connection with the activities authorized by law any official or employee of the department of personnel administration to give full information and to provide all papers and records relating to any official act performed by him.

SECTION 4. Section 4J of said chapter 7, as appearing in section 8 of chapter 835 of the acts of 1974, is hereby amended by striking out the first three sentences and inserting in place thereof the following ten sentences:- There shall be within the department of personnel administration a division of management services, a division of information services, and a division of technical services. Each division shall be headed by a deputy commissioner. There shall be within each division of the department of personnel administration no more than three bureaus. There shall be within the division of technical services, a bureau which shall provide technical assistance to state agencies and cities and towns of the commonwealth and such bureau shall also develop an audit capacity to monitor compliance with civil service law and rules by state agencies and cities and towns of the commonwealth. Each bureau shall be headed by a bureau director. Each deputy commissioner and each bureau director shall be appointed by the personnel administrator with the ap-

Analysis

SECTION 5

PRIOR LAW: Section 4K of Chapter 7 of the General Laws established the Municipal Personnel Advisory Board within the Executive Office of Administration and Finance. The Municipal Personnel Advisory Board shall consist of five members and may elect one of its members to serve as the Chairman. The Civil Service Commission and the Personnel Administrator shall consult with the Advisory Board on the promulgation of rules and regulations and the administration of the merit system established pursuant to Chapter 31.

EFFECT OF CH. 767: Amends Section 4K of Chapter 31 of the General Laws to direct the Personnel Administrator to consult with the Municipal Personnel Advisory Board on the establishment of rules and regulations under Chapter 31 and 31A of the General Laws. This section is necessary to conform with proposed changes to the rule-making authority which appears in a later section of the Committee's legislation.

SECTION 6

PRIOR LAW: Section 6F of Chapter 7 of the General Laws provides that there shall be a coordinator of flexible hours employment within the Division of Personnel Administration. The coordinator of the flexible hours program shall be responsible for the development, implementation and oversight of plans for the utilization within all executive agencies of persons choosing to be employed for a reduced number of hours per week. The coordinator shall also be responsible for the recruitment of such persons for civil service and non-civil service employment.

EFFECT OF CH. 767: Amends Section 6F of Chapter 7 of the General Laws to provide for the continuation and expansion of the flexible hours program in the new Department of Personnel Administration. This section also broadens and strengthens the reporting requirements of state agencies in the development of the flexible hours program.

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proval of the secretary of administration and finance, and may be removed in like manner. Each deputy commissioner and each bureau director shall be a person of ability and experience and shall devote his entire time to the duties of his office; provided that the deputy commissioners and bureau directors shall not be subject to section nine A of chapter thirty or chapter thirty-one. The personnel administrator shall appoint, with the approval of the secretary of administration and finance, a deputy personnel administrator who shall have the rank of first deputy commissioner. The deputy personnel administrator shall be a person of ability and experience and shall devote his entire time to the duties of his office and shall not be subject to the provisions of said section nine A of said chapter thirty or said chapter thirty-one. The deputy administrator shall exercise such authority and discharge such duties as the personnel administrator may from time to time delegate to him and in the absence or incapacity of the personnel administrator or in the event of a vacancy in the position of personnel administrator, the said deputy personnel administrator shall act as the personnel administrator until the absence or incapacity shall have terminated or vacancy shall have been filled.

SECTION 5. Section 4K of said chapter 7, as so appearing, is hereby amended by striking out the seventh sentence and inserting in place thereof the following sentence:- The personnel administrator shall consult with the board on the promulgation of rules and regulations and on the administration of the merit system established under chapter thirty-one and chapter thirty-one A insofar as they relate to the cities and towns.

SECTION 6. Said chapter 7 is hereby further amended by striking out section 6F, inserted by section 1 of chapter 500 of the acts of 1974, and inserting in place thereof the following section:-

Section 6F. There shall be a coordinator of flexible hours employment within the department of personnel administration who shall work on the development, implementation and oversight of plans for the utilization, within all executive agencies, of persons who choose to be employed for a reduced number of hours per week and for the recruitment of such persons for civil service and non-civil service employment. All state agencies shall report to the coordinator the progress of implementation of any flexible hours plan in such agency. Such reports shall be filed on a semi-annual basis, beginning six months from the effective date of such program. Such reports shall include:

(1) The number of regular part-time employees currently employed and the percentage of the full-time workforce represented by this number;

(2) The agency policy for full-time employees who wish to convert to part-time status;

Analysis

SECTION 7

PRIOR LAW: Section 28 of the General Laws provides that the Personnel Administrator shall make rules for the prevention of accidents and industrial or occupational diseases in any employment or place of employment of the Commonwealth. The Personnel Administrator shall also make, and from time to time amend, rules which regulate vacation leave, sick leave, and other leave with payments and overtime compensation.

EFFECT OF CH. 767: Amends Section 28 of Chapter 7 of the General Laws to allow the Personnel Administrator to enter into agreements with the federal government and other public agencies and instrumentalities of the Commonwealth to conduct training programs for state managerial personnel.

SECTION 8

PRIOR LAW: Section 30 of Chapter 7 of the General Laws provides that the Division of Personnel Administration shall collect at least once in every fiscal year such information relative to certain officials and employees of the Commonwealth as required by Section 28 of Chapter 30.

EFFECT OF CH. 767: Amends Section 30 of Chapter 7 of the General Laws to change the title of "Division of Personnel Administration" to the "Department of Personnel Administration."

SECTION 9

PRIOR LAW: Section 29A of Chapter 29 of the General Laws provides that the Personnel Administrator shall, in conjunction with the Secretary of Administration and Finance, establish the rules and regulations governing the use and rate of compensation of all consultants employed by the Commonwealth.

EFFECT OF CH. 767: Amends Section 29A of Chapter 29 of the General Laws to provide the title of "Division of Personnel Administration" to the "Department of Personnel Administration."

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(3) Agency plans to increase the number and scope and grade range of part-time employees during the next reporting period;

(4) Extent of flextime programs in the agency.

The coordinator shall recommend to said department such action, including the submission of legislation and the making of rules, as shall be necessary from time to time in order to implement a plan or plans for flexible hours employment and in order to secure for flexible hours employees the normal advantages of their positions, including without limitation vacation time, sick leave, maternity leave, bonuses, advancement, seniority, length of service credit, benefits and participation in benefit plans or programs. The coordinator shall make an annual report to the personnel administrator containing information as to the activities of the program during the preceding year. Such report shall be a public record, and copies of it shall be furnished to the governor and to the state library.

SECTION 7. Section 28 of said chapter 7, as most recently amended by section 10 of chapter 835 of the acts of 1974, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following two paragraphs:-

All rules, amendments thereto, and determinations made in accordance with this section shall be open to public inspection in the files of the department, and copies thereof shall be available to officers and employees of the commonwealth upon request.

Said administrator may enter into agreements with the federal government and other public agencies, departments, boards, commissions, divisions, bureaus, authorities or other instrumentalities of the commonwealth for the conduct of training for state managerial personnel.

SECTION 8. Section 30 of said chapter 7, as most recently amended by section 14 of said chapter 835, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The department of personnel administration shall collect at least once in every fiscal year such information relative to certain officials and employees of the commonwealth as shall be furnished to it under section thirty-eight of chapter thirty, which shall cover the fiscal year preceding.

SECTION 9. Section 29A of chapter 29 of the General Laws, as most recently amended by section 30 of said chapter 835, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Such rules and regulations shall be open to public inspection in the department of personnel administration, and copies thereof shall be available to any person upon request.

SECTION 10. Chapter 31 of the General Laws is hereby amended by striking out section 1, as most recently amended by

Analysis

SECTION 10

PRIOR LAW: None

EFFECTS OF CH. 767: Amends Chapter 31 of the General Laws by inserting a new provision which establishes a "Statement of Policy" outlining the basic merit principles for the Commonwealth and its political subdivisions. This section also amends the definition section contained in Chapter 31 of the General Laws by modifying or adding the definitions contained in Chapter 767.

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section 1 of chapter 577 of the acts of 1979, and inserting in place thereof the following section:-

Section 1. In this chapter, the following words and phrases shall have the following meanings, unless the context requires otherwise:-

"Administrator", the personnel administrator of the department of personnel administration.

"Appointing authority", any person, board or commission with power to appoint or employ personnel in civil service positions.

"Basic merit principles", shall mean (a) recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment; (b) providing of equitable and adequate compensation for all employees; (c) providing of training and development for employees, as needed, to assure the advancement and high quality performance of such employees; (d) retaining of employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected; (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and; (f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

"Career management service positions", those managerial and confidential positions so designated in accordance with the provisions of section forty-eight A.

"Certification", the designation to an appointing authority by the administrator, pursuant to the civil service law and rules, of the names of persons from an eligible list or register who qualify for appointment to civil service positions.

"Civil service appointment", an original appointment or a promotional appointment made pursuant to the provisions of the civil service law and rules.

"Civil service employee", a person holding a civil service appointment.

"Civil service law", this chapter.

"Civil service law and rules", this chapter and the rules promulgated pursuant to this chapter.

"Civil service position", an office or position, appointment to which is subject to the requirements of the civil service law and rules.

"Commission", the civil service commission of the commonwealth.

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"Department", the department of personnel administration.

"Departmental unit", a board, commission, department, or any division, institutional component, or other component of a department established by law, ordinance, or by-law.

"Disabled veteran", any veteran, as defined in this section, who (1) has a continuing service-incurred disability of not less than ten per cent based on wartime service for which he is receiving or entitled to receive compensation from the veterans administration or, provided that such disability is a permanent physical disability, for which he has been retired from any branch of the armed forces and is receiving or is entitled to receive a retirement allowance, or (2) has a continuing service-incurred disability based on wartime service for which he is receiving or is entitled to receive a statutory award from the veterans administration.

"Discharge", the permanent, involuntary separation of a person from his civil service employment by his appointing authority.

"Eligible list", a list established by the administrator, pursuant to the civil service law and rules, or persons who have passed an examination; or a re-employment list established pursuant to section forty; or a list of intermittent or reserve fire or police officers as authorized under the provisions of section sixty; or any other list established pursuant to the civil service rules from which certifications are made to appointing authorities to fill positions in the official service.

"Entrance requirements", the prerequisites which an applicant must satisfy to be eligible to take an examination.

"Entry level", a position having a title which is the lowest in a series of titles in a municipal or in the state classification plan, whether or not higher titles in same job series exist in the same department.

"Essay question", a question in an examination requiring an applicant to compose a written response of one or more sentences or requiring other than a limited response or short answer.

"Executive office", an office established pursuant to chapter six A or chapter seven.

"Handicap", any condition or characteristic, physical or mental, which substantially limits one or more major life activities; or a record of such impairment; or the external manifestations of such impairment.

"Labor service", the composite of all civil service positions whose duties are such that a suitable selection for such positions may be made based upon registration pursuant to section twenty-eight, rather than by competitive examination.

"Layoff", a temporary discontinuance of employment for lack of work or lack of money.

"Mentally retarded person", a person certified as being men-

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tally retarded by the Massachusetts rehabilitation commission.

"Official service", the composite of all civil service positions not in the labor service.

"Original appointment", an appointment pursuant to section six or section twenty-eight.

"Performance evaluation", an evaluation of an employee's performance in accordance with the standards outlined in section six A to six C, inclusive.

"Permanent employee", a person who is employed in a civil service position (1) following an original appointment, subject to the serving of a probationary period as required by law, but otherwise without restriction as to the duration of his employment; or (2) following a promotional appointment, without restriction as to the duration of his employment.

"Promotional appointment", an appointment pursuant to section seven or in the labor service, pursuant to the civil service rules, of a person employed in one title to a higher title in the same or a different series, or to another title which is not higher but where substantially dissimilar requirements prevent a transfer pursuant to section thirty-five.

"Provisional employee", a person who is employed in a civil service position, pursuant to and in accordance with sections twelve, thirteen and fourteen.

"Register", a list established by the administrator pursuant to the civil service law and rules, from which certifications are made to appointing authorities to fill civil service positions in the labor service.

"Reinstatement", the restoration of an employee to a position pursuant to the civil service law and rules.

"Requisition", a request by an appointing authority to the administrator to certify names of persons for appointment to civil service positions.

"Resignation", a permanent voluntary separation from service.

"Roster", a list of permanent employees in a departmental unit, arranged according to seniority, and of employees appointed pursuant to temporary or provisional appointments.

"Rules", the rules promulgated by the personnel administrator pursuant to civil service law.

"Seasonal position", a position requiring the services of an incumbent, on either a full-time or less than full-time basis, beginning no earlier than May first and ending no later than September thirtieth or beginning no earlier than November first and ending no later than April first in any twelve-month period; provided, however, that the following position shall not be deemed to be seasonal: (1) a position in the police force or fire force of a city or town, (2) a position in the detective force of the state department of public safety, in the capitol police force,

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or in the police force of the metropolitan district commission, and (3) a permanent position for which funds have been appropriated or are available on a permanent basis. Notwithstanding any provision of this chapter to the contrary, a position of police officer in a police department within the counties of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth and Suffolk employed on either a full-time or less than full-time basis, beginning not earlier than May first and ending no later than September thirteenth shall be deemed to be a seasonal position and shall be exempt from the provisions of this chapter.

"Series", a vertical grouping of related titles so that they form a career ladder.

"Suspension", a temporary, involuntary separation of a person from his civil service employment by the appointing authority.

"Temporary employee", a person who is employed in a civil service position, after a civil service appointment, for a specified period of time or for the duration of a temporary vacancy.

"Tenured employee", a civil service employee who is employed following (1) an original appointment to a position on a permanent basis and the actual performance of the duties of such position for the probationary period required by law or (2), a promotional appointment on a permanent basis.

"Title", a descriptive name applied to a position or to a group of positions having similar duties and the same general level of responsibility.

"Veteran", any person who:

(1) comes within the definition of a veteran appearing in the forty-third clause of section seven of chapter four; or,

(2) comes within such definition except that instead of having performed "wartime service" as defined therein, he has been awarded the Congressional Medal of Honor or one of the following campaign badges: Second Nicaraguan Campaign, Yangtze Service, Navy Occupation Service, Army of Occupation or Medal for Humane Action; or,

(3) is a person eligible to receive the Congressional Medal of Honor or one of the campaign badges enumerated in clause (2) of this paragraph and who presents proof of such eligibility which is satisfactory to the administrator.

A veteran shall not include active duty for training in the army national guard or air national guard or active duty for training as a reservist in the armed forces of the United States.

"Wartime service", the same meaning as specified in the forty-third clause of section seven of chapter four, or active service in the armed forces of the United States in any campaign for which an award was made of any of the campaign badges enumerated in the definition of "veteran" in this section.

Analysis

SECTION 11

PRIOR LAW: Section 2 of Chapter 31 of the General Laws outlines the present powers and duties of the Civil Service Commission. The powers and duties can be summarized as follows:

- a) To conduct investigations at its discretion or upon the written request of the Governor, the Executive Council, the General Court, the Personnel Administrator, and aggrieved persons or by ten persons registered to vote in the Commonwealth.
- b) To hear and decide appeals by persons aggrieved by decisions, actions or failure to act by the Administrator, except as limited by the provisions of Section 24 relating to the grading of examinations.
- c) To make an annual report to the General Court containing recommended legislation, if any, for the improvement of the Commonwealth's civil service system.

EFFECT OF CH. 767: Amends Section 2 of Chapter 31 of the General Laws to modify the existing powers and duties of the Civil Service Commission. The major change in the proposed section modifies the existing provisions of subsection (b) to require that no person shall be deemed to be aggrieved under the provisions of Section 2 of Chapter 31 unless such person has made specific allegations in writing that a decision, action, or failure to act on the part of the Administrator is in violation of this chapter, the rules or basic merit principles. Section 2 further provides that the standard of review of the decision of the Administrator be made by applying standards established by law or rule to a fact situation, and no decision shall be reviewed by the Commission except upon finding that the Administrator's decision was not based upon a preponderance of evidence in the record. This section also provides that the Commission shall conduct hearings regarding municipal audits conducted in accordance with the provisions of Chapter 31A and hear and decide appeals concerning performance evaluations as provided under this Chapter and Chapter 31A.

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SECTION 11. Said chapter 31 is hereby further amended by striking out section 2, as appearing in section 11 of chapter 393 of the acts of 1978, and inserting in place thereof the following section:-

Section 2. In addition to its other powers and duties, the commission shall have the following powers and duties:

(a) To conduct investigations at its discretion or upon the written request of the governor, the executive council, the general court or either of its branches, the administrator, an aggrieved person, or by ten persons registered to vote in the commonwealth.

(b) To hear and decide appeals by a person aggrieved by any decision, action, or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations; provided that no decision or action of the administrator shall be reversed or modified nor shall any action be ordered in the case of a failure of the administrator to act, except by an affirmative vote of at least three members of the commission, and in each such case the commission shall state in the minutes of its proceedings the specific reasons for its decision.

No person shall be deemed to be aggrieved under the provisions of this section unless such person has made specific allegations in writing that a decision, action, or failure to act on the part of the administrator was in violation of this chapter, the rules or basic merit principles promulgated thereunder and said allegations shall show that such person's rights were abridged, denied, or prejudiced in such a manner as to cause actual harm to the person's employment status.

Any person appealing a decision, action or failure to act of the administrator shall file a copy of the allegations which form the basis of the aggrieved person's appeal with the administrator within three days of the filing of such allegations with the commission and provided further such person shall not have standing before the commission until such filing takes place. Said allegations shall clearly state the basis of the aggrieved person's appeal, and make specific references to the provisions of this chapter or the rules of the department or basic merit principles promulgated thereunder which are alleged to have been violated, together with an explanation of how the person has been harmed.

Hearings on any appeal before the commission may be held before less than a majority of its members, or the chairman may assign one or more members to hold such hearings and to report his or their findings of fact and recommendations to the commission for its action.

No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be

Analysis

SECTION 12

PRIOR LAW: Section 3 of Chapter 31 of the General Laws provides that, subject to the approval of the Governor, the Civil Service Commission shall make and amend rules which shall regulate the selection and employment of persons for civil service positions.

EFFECT OF CH. 767: Amends Section 3 of Chapter 31 of the General Laws to shift the existing rule-making authority from the Civil Service Commission to the Personnel Administrator. This proposed section also broadens the powers and duties of the Personnel Administrator to determine the weights in promotional examinations; to establish a career management service program; to delegate certain civil service functions to the various state agencies, to oversee the establishment of local merit systems in accordance with provisions of Chapter 31A.

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reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record.

(c) Subject to the procedures set forth in paragraph (b), except that all references therein to the administrator shall be taken to mean the local appointing authority or its designated representative, to hear and decide appeals by persons aggrieved by decisions, actions, or failure to act by local appointing authorities in accordance with the provisions of section eight of chapter thirty-one A.

(d) To conduct hearings regarding performance audits conducted by the administrator in accordance with provisions of chapter thirty-one A.

(e) To hear and decide appeals concerning performance evaluations, as provided by this chapter and chapter thirty-one A.

(f) To recommend any proposed rule changes to the administrator it feels would be consistent with basic merit principles outlined in this chapter and would be in the public interest.

(g) To adopt such rules of procedure as necessary for the conduct of its proceedings.

SECTION 12. Said chapter 31 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The administrator shall make and amend rules which shall regulate the recruitment, selection, training and employment of persons for civil service positions; provided, however, that the commission shall review such rules and in the event the commission determines that any proposed rule violates the basic merit principles outlined in this chapter, it may, within fifteen days of receipt of such proposed rule, by a three-fifths vote, disapprove such proposed rule. Such rules shall include provisions for the following:

(a) Establishment of civil service series and titles, provided that for employment in the service of the commonwealth such series and titles shall be consistent with those established pursuant to section forty-five of chapter thirty.

(b) Placement of civil service positions in the official or labor service.

(c) Open competitive and other examinations to test the practical fitness of applicants.

(d) Selection of persons for positions and employment in accordance with the results of examination, or in the order of application, or otherwise.

(e) Promotional appointments, on the basis of merit as determined by examination, performance evaluation, seniority of service or any combination of factors which fairly test the applicant's ability to perform the duties of the position as deter-

Analysis

SECTION 13

PRIOR LAW: Section 4 of Chapter 31 of the General Laws outlines the statutory notice requirements which must be followed by the Civil Service Commission in the adoption of or amendment to the civil service rules.

EFFECT OF CH. 767: Amends Section 4 of Chapter 31 of the General Laws to outline the notice requirements which the Personnel Administrator must follow in the adoption or amending of civil service rules, under the proposed shift in rule-making authority outlined in Section 13.

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mined by the administrator.

(f) Preferences to veterans in original and promotional appointments.

(g) Subject to prior preference to disabled veterans, preference to blind persons in the employment by any state department, board or commission of typists to take dictation solely from dictating machines.

(h) Transfer within and between departmental units.

(i) In the development of examination procedures shall consult with representatives of labor and professionals in the field to increase emphasis upon aptitudes relevant to performing the position to be tested.

(j) The establishment and direction of a career management service program.

(k) The development of recruitment programs, and

(l) The oversight responsibility for development of training programs in the various state agencies of the commonwealth.

SECTION 13. Said chapter 31 is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. A new rule of the administrator and any amendment to an existing rule shall not be effective until after a public hearing relative to such change has been held by the administrator at least thirty days prior to such proposed rule change and until such change has been reviewed by the commission. Failure of the commission to reject by majority vote of all members such change within fifteen days of submission by the administrator shall authorize the administrator to issue such change. Not earlier than thirty nor later than fifteen days before such hearing the administrator shall send notice thereof to each member of the general court, to the mayor or city manager of each city and the selectmen of each town to which such rule or change relates, and shall also publish such notice in one or more newspapers. Notices of the hearing shall also be sent, within the same period, to the clerks of the several cities and towns who shall post them in the city or town halls and other conspicuous places. There shall be posted by the clerk not less than three copies of such notice in every town and not less than one per ward in each city. Such notice shall contain information as to where copies of the proposed rule or change in rule may be obtained. After the hearing provided for by this paragraph, the administrator may issue such new rule or such change in an existing rule.

The administrator, after the expiration of the review period without rejection, shall forthwith print such change and send a copy to the mayor or city manager of each city, the selectmen of each town, and to state appointing authorities to which such

Analysis

SECTION 14

PRIOR LAW: Section 5 of Chapter 31 of the General Laws outlines the existing powers and duties of the Personnel Administrator.

EFFECT OF CH. 767: Amends Section 5 of Chapter 31 of the General Laws to broaden the powers and duties of the Personnel Administrator to include, in addition to his existing powers, the authority:

- a) To delegate certain administrative functions to the various state agencies.
- b) To act as a coordinator and technical assistant in the development of training programs to the various state agencies and the cities and towns of the Commonwealth.
- c) To establish a schedule of fees to be collected for applicants taking non-promotional examinations.
- d) To develop, in conjunction with representatives for labor and management, the procedures and criteria for implementing a performance evaluation program.
- e) To establish and act as a coordinator of a career management service program for employees of the Commonwealth.
- f) To establish within the department, a bureau which shall provide technical assistance to the various state agencies and cities and towns subject to civil service law. Such a technical assistance bureau shall also develop an audit capability to monitor compliance with the civil service laws.

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change relates, and to each member of the general court, and shall publish such new rule or change in rule in one or more newspapers. Such publication shall specify the effective date of such new rule or change in rule, which shall be not less than thirty days subsequent to the date of such publication.

SECTION 14. Section 5 of said chapter 31, as so appearing, is hereby amended by striking out paragraph (i) and inserting in place thereof the following five paragraphs:-

(l) To delegate the administrative functions of the civil service system, so far as practicable, to the various state agencies and cities and towns of the commonwealth.

(m) To act as a coordinator and technical assistant in the development and training programs to the various state agencies and cities and towns of the commonwealth.

(n) To establish a schedule of fees to be collected from applicants taking non-promotional civil service examinations, and to provide for the waiver of such fees in appropriate instances.

(o) To establish and act as coordinator of a career management service program for employees of the commonwealth.

(p) To provide training programs and technical expertise on the substantive and procedural issues involved in disciplinary actions involving the various state agencies.

SECTION 15. Said chapter 31 is hereby further amended by inserting after section 6 the following three sections:-

Section 6A. The administrator shall establish a program for the implementation of a performance evaluation system for all civil service employees. In the development of the performance evaluation system for municipal civil service employees the administrator shall, in conjunction with representatives of the collective bargaining units to be evaluated and the Massachusetts Municipal Association, determine their form, method and general criteria.

The administrator shall supervise the general implementation of the performance evaluation system for the commonwealth's civil service employees and in conjunction with representatives of the collective bargaining units to be evaluated, determine their form, method and general criteria. The evaluation system shall, to the maximum extent possible, evaluate on the basis of objective criteria, the job performance of each such employee, and the results of such evaluations may be utilized by the department or the appointing authority in future personnel determinations. Upon the establishment of the general format and criteria for such evaluation system, such format and criteria shall be adopted as rules by the administrator in accordance with the provisions of section four.

Such evaluation system shall include, but not be limited to, the following general provisions:

Analysis

SECTION 15

PRIOR LAW: None.

EFFECT OF CH. 767: Amends Section 31 of the General Laws by inserting, after Section 6, three new sections which establish a performance evaluation program for all state and municipal civil service employees. Under the provisions of the sections, the Personnel Administrator shall develop the performance evaluation program and shall, in conjunction with representatives of labor and management, determine the weight to be given such evaluations in promotional decisions. These sections also outline the basic formula and procedures for the performance evaluations system and the appellate process.

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(1) An employee serving in a civil service position may be evaluated no more than twice each year by the employee's immediate supervisor.

(2) All performance evaluations shall be in writing and shall be maintained as part of the employee's records by his appointing authority until such employee leaves civil service employment or as otherwise prescribed by the administrator.

(3) Prior to each evaluation period, the immediate supervisor shall inform the employee of the general performance dimensions and the procedures to be utilized in evaluating the employee's performance. The supervisor shall also inform the employee that such evaluation may be utilized by the department or the appointing authority in future personnel determinations.

(4) After such evaluation has been conducted, the immediate supervisor shall confer with the employee concerning the evaluation. Upon the completion of the employee's review of such evaluation, the employee shall sign the evaluation indicating whether he agrees or disagrees with the evaluation. If the employee so desires, he or, with the employee's consent, his collective bargaining agent, may be provided a copy of such evaluation.

Section 6B. The weight given to performance evaluation in promotional decisions for civil service positions shall be determined by the administrator in conjunction with representatives of collective bargaining units containing the titles to be tested.

Following such determination but no later than fifteen days prior to the distribution of the examination notice, the administrator shall notify the participating collective bargaining representatives, in writing, of his determination as to the appropriate weight to be given to performance appraisals in the making of the promotional decision involved. This written notification shall include specific justification for the determination made and for the rejection of alternate proposals, if any.

The participating collective bargaining representatives shall have fifteen days in which to review the determination, to request review of proposed revisions, to request further consultation or to seek any combination of the foregoing. The administrator shall grant all such requests and promptly provide a written explanation of his further determination if requested by any such collective bargaining representative.

Section 6C. A civil service employee, except an employee serving during his probationary period, who receives an evaluation with which he disagrees, shall within ten days unless otherwise specified in the collective bargaining agreement, select an option of appealing the results of such evaluation through either the grievance procedure contained in the employee's respective collective bargaining agreement or through the procedures out-

Analysis

SECTION 16

PRIOR LAW: Section 16 of Chapter 31 of the General Laws provides that examinations shall be conducted under the direction of the Personnel Administrator, who shall determine their form, method and subject matter. Section 16 also provides that the Administrator shall develop examinations which relate to matters which fairly test the fitness of the applicant to perform the duties of the position for which the examination is held. This section further provides that the Administrator shall, subject to the provisions of Section 26, examine, qualify and rank applicants for original and promotional appointments solely on the basis of training and experience in certain specific cases. The areas whereby the Personnel Administrator may rank applicants on the basis of training and experience include:

- a) A scientific or professional position for which education at or above a master's degree is required.
- b) When the major duty of the position requires that applicants successfully complete a course in emergency medical care, pursuant to the provisions of Chapter 111c, or
- c) When the major duty of the position requires that the applicant possess a certificate, registration or license issued by the State Board of Registration or Examiners.

EFFECT OF CH. 767: Amends Section 16 of Chapter 31 of the General Laws to expand the areas whereby the Personnel Administrator may qualify and rank applicants for original and promotional appointments without a written examination to include an applicant's educational background and other criteria deemed appropriate. The Personnel Administrator may also, upon the written request of a handicapped person, make reasonable accommodations to allow such individuals to take an examination. This section also further expands subsection (c), to provide that the Personnel Administrator may waive the written examination for positions which require that the applicant be required to possess a certificate, registration or license by a professional association specified by the Administrator.

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lined in paragraphs (a) to (c), inclusive.

(a) Within ten days after the employee has reviewed the original evaluation, he may appeal the evaluation to a neutral party selected by the appointing authority to review the evaluation.

(b) Within ten days of receipt of a decision on employee's appeal outlined in paragraph (a), the employee or the employer may appeal an evaluation to a three-member panel appointed by the appointing authority, in conjunction with representatives of labor.

(c) Within ten days receipt of a decision on an appeal provided for in paragraph (b) the employer or the employee may further appeal the evaluation to the civil service commission. The commission shall, within twenty-one days after the close of such hearing or the evaluation, render a written decision and send notice thereof to all parties concerned.

Saturdays, Sundays, vacation days, and legal holidays shall not be counted in the computation of any period of time specified in this section.

SECTION 16. Said chapter 31 is hereby further amended by striking out section 16, as appearing in section 11 of chapter 393 of the acts of 1978, and inserting in place thereof the following section:-

Section 16. Examinations shall be conducted under the direction of the administrator, who shall determine their form, method and subject matter. Examinations shall fairly test the knowledge, skills and abilities which can be practically and reliably measured and which are actually required to perform the primary or dominant duties of the position for which the examination is held. The administrator shall, in development of examinations, consult with representatives of labor and professionals in the field to increase emphasis upon aptitudes relevant to performing the positions to be tested. Upon the application of a handicapped person to take an examination for any position, the administrator, upon written request of such person, shall make reasonable accommodations as will enable such handicapped person to take the examination.

The administrator shall, subject to the provisions of section twenty-six, where applicable, examine, qualify, and rank applicants for original or promotional appointments solely on the basis of training, experience, education or other criteria considered appropriate by the administrator (a) for a scientific or professional position for which education at or above the master's degree level is required by statute or under authority thereof; (b) when the major duty of a position is such that applicants are required to have successfully completed a course in emergency medical care pursuant to the provisions of chapter one hundred

Analysis

SECTION 17

PRIOR LAW: Section 24 of Chapter 31 of the General Laws provides that an applicant may appeal a decision of the Personnel Administrator on the marking of examination papers within 17 days after the date of the mailing of such decision. An applicant may not appeal the finding of the Administrator relative to the grading of answers to written, oral, or practical questions in a competitive examination, but may appeal the grading of answers to essay questions. The Civil Service Commission shall determine the form of the petition of the appeal and such petition shall contain a brief statement of the allegations presented to the Administrator for review.

EFFECT OF CH. 767: Amends Section 24 of Chapter 31 of the General Laws to provide that an applicant may appeal the ruling of the Personnel Administrator, to the Civil Service Commission in the following instances: 1) a finding that the applicant did not meet the entrance requirements for the examination or, 2) a finding that the examination taken by the applicant was a fair test of the individual's ability to perform the primary or dominant duties for which the examination was held. This section also provides that when the Civil Service Commission accepts a petition for an appeal of the ruling of the Personnel Administrator, that the Commission shall conduct a hearing, and within 30 days, render a decision on the appeal.

SECTION 18

PRIOR LAW: Section 34 of Chapter 31 of the General Laws provides that following an employee's original appointment to an official service position as a permanent full-time employee, a person shall perform the duties of such position on a probationary basis for six months before he shall be considered a full-time tenured employee as provided in Sections 61 and 65. If the conduct of a person serving a probationary period is not satisfactory to the appointing authority, he may, at any time after such person has served 30 days and prior to the end of the probationary period, give such person written notice that the character, or quality of work, is not satisfactory and the date of termination of his service.

EFFECT OF CH. 767: Amends Section 34 of Chapter 31 of the General Laws to provide that during an employee's probationary period, the employee may be subject to a performance evaluation during his first two (2) months of employment and a second evaluation may be conducted at least one (1) month prior to the employee's six month anniversary date. In the event the employee evaluation is unsatisfactory, the appointing authority may extend the probationary period for an additional two (2) months. Section 34 further provides that in no case shall an evaluation grant to the probationary employee any greater rights than those already provided for in Section 34.

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and eleven C; (c) when the major duty of a position is such that applicants are required to possess a certificate, registration or license issued after examination by a state board of registration or examiners or by a professional association specified by the administrator. A person who has taken a civil service examination pursuant to this paragraph shall not have recourse to the review procedures set forth in section twenty-two.

SECTION 17. Said chapter 31 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:-

Section 24. An applicant may appeal to the commission from a decision of the administrator made pursuant to section twenty-three relative to (a) the marking of the applicant's answers to essay questions; (b) a finding that the applicant did not meet the entrance requirements for the examination; or (c) a finding that the examination taken by such applicant was a fair test of the applicant's fitness to actually perform the primary or dominant duties of the position for which the examination was held. Such appeal shall be filed no later than seventeen days after the date of mailing of the decision of the administrator. The commission shall determine the form of the petition for appeal, provided that the petition shall include a brief statement of the allegations presented to the administrator for review. After acceptance of such an appeal, the commission shall conduct a hearing and, within thirty days, render a decision, and send a copy of such decision to the applicant and the administrator.

The commission shall refuse to accept any petition for appeal unless the request for appeal, which was the basis for such petition, was filed in the required time and form and unless a decision on such request for review has been rendered by the administrator. In deciding an appeal pursuant to this section, the commission shall not allow credit for training or experience unless such training or experience was fully stated in the training and experience sheet filed by the applicant at the time of the examination.

SECTION 18. Section 34 of said chapter 31, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

During the probationary period, he may be subject to a performance evaluation during his first two months of service and a second evaluation may be conducted at least one month prior to his sixth month anniversary date of service. The appointing authority may extend the probationary period for a period of two months if the second evaluation of the probationary employee is unsatisfactory. Such evaluation may be utilized by the appointing authority, but in no instance shall the appointing authority be required to consider the results of such evaluation in a determination of granting such employee permanent or tenured

Analysis

SECTION 19

PRIOR LAW: Section 42 of Chapter 31 of the General Laws provides that any employee who alleges that an appointing authority has failed to follow the requirements outlined in Section 41 and which affects his employment or compensation may file a complaint with the Civil Service Commission within 10 days after such action was taken. If the Commission determines that the appointing authority has failed to follow the necessary statutory requirements or such action was not based on "just cause," the Commission shall order the appointing authority to restore the employee to his former employment immediately or may modify the penalty imposed upon the employee in accordance with the provisions outlined in Section 43 of Chapter 31.

EFFECT OF CH. 767: Amends Section 42 of Chapter 31 of the General Laws to require that in the event the Civil Service Commission determines that any issue on which an employee files a petition or complaint has been previously litigated in accordance with provisions of a collective bargaining agreement, the Commission shall forthwith dismiss such complaint.

SECTION 20

PRIOR LAW: Section 43 of Chapter 31 of the General Laws provides that if a person is aggrieved by a decision of an appointing authority made pursuant to Section 43, an employee may, within 10 days of receipt of such decision, request a hearing before the Civil Service Commission. Said hearing shall be commenced in not more than 10 days after such filing and shall be public if either party requests in writing. If the Commission determines that the action of the appointing authority was justified, it shall affirm the action; in the event the Commission determines it was not justified, it shall reverse such action or modify the penalty imposed by the appointing authority.

EFFECT OF CH. 767: Amends Section 43 of Chapter 31 of the General Laws to provide that if the Civil Service Commission determines that there was a "preponderance of evidence" just cause for such action, the said action by the appointing authority will be affirmed. This section also provides that in any disciplinary action or discharge where the substance of such action is based on a performance evaluation conducted in accordance with the provisions of Sections 6A to 6C inclusive, the substantive matter of the evaluation shall not be open to or subject to redetermination by the Commission.

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status. Nothing contained herein shall require an appointing authority to evaluate a probationary employee and in no such instance shall such evaluation grant such probationary employee any greater rights than those contained in this section.

SECTION 19. The second paragraph of section 42 of said chapter 31, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- In the event the commission determines that the subject matter of such complaint has been previously resolved or litigated with respect to such employee, in accordance with the provisions of section eight of chapter one hundred and fifty E, or is presently being resolved in accordance with said section eight, the commission shall forthwith dismiss such complaint.

SECTION 20. Said chapter 31 is hereby further amended by striking out section 43, as so appearing, and inserting in place thereof the following section:-

Section 43. If a person aggrieved by a decision of an appointing authority made pursuant to section forty-one shall, within ten days after receiving written notice of such decision, appeal in writing to the commission, he shall be given a hearing before a member of the commission or some disinterested person designated by the chairman of the commission. Said hearing shall be commenced in not less than three nor more than ten days after filing of such appeal and shall be completed within thirty days after such filing unless, in either case, both parties shall otherwise agree in a writing filed with the commission, or unless the member or hearing officer determines, in his discretion, that a continuance is necessary or advisable. If the commission determines that such appeal has been previously resolved or litigated with respect to such person, in accordance with the provisions of section eight of chapter one hundred and fifty E, or is presently being resolved in accordance with such section, the commission shall forthwith dismiss such appeal. If the decision of the appointing authority is based on a performance evaluation conducted in accordance with the provisions of section six A and all rights to appeal such evaluation pursuant to section six C have been exhausted or have expired, the substantive matter involved in the evaluation shall not be open to redetermination by the commission. Upon completion of the hearing, the member or hearing officer shall file forthwith a report of his findings with the commission. Within thirty days after the filing of such report, the commission shall render a written decision and send notice thereof to all parties concerned.

If the commission by a preponderance of the evidence determines that there was just cause for an action taken against such person it shall affirm the action of the appointing authority, otherwise it shall reverse such action and the person concerned shall be returned to his position without loss of compensation or

Analysis

SECTION 21

PRIOR LAW: Section 48 of Chapter 31 of the General Laws provides a specific listing of those positions in the official and labor service in the employment of the Commonwealth and its political subdivisions which shall be exempt from civil service law.

EFFECT OF CH. 767: Amends Section 48 of Chapter 31 of the General Laws by placing a number of labor service positions within the Commonwealth under the purview of the civil service law and further expands the list of municipal positions which are exempt from civil service law. The positions now exempt as a result of enactment of Chapter 767 are the following:

- a) Executive Directors of Councils on Aging
- b) Part-time municipal positions of
 - electrical inspectors
 - wiring inspectors
 - plumbing inspectors
 - gas inspectors
 - sealer of weights and measures and their assistants

The following positions which were originally exempt have also been eliminated:

- a) male traffic supervisors
- b) employees of the Health and Welfare Trust Board (agency abolished)

other rights; provided, however, if the employee, by a preponderance of evidence, establishes that said action was based upon harmful error in the application of the appointing authority's procedure, an error of law, or upon any factor or conduct on the part of the employee not reasonably related to the fitness of the employee to perform in his position, said action shall not be sustained and the person shall be returned to his position without loss of compensation or other rights. The commission may also modify any penalty imposed by the appointing authority.

Any hearing pursuant to this section shall be public if either party so requests in writing. The person who requested the hearing shall be allowed to answer, personally or by counsel, any of the charges which have been made against him.

The decision of the commission made pursuant to this section shall be subject to judicial review as provided in section forty-four.

Saturdays, Sundays and legal holidays shall not be counted in the computation of any period of time specified in this section.

SECTION 21. Said chapter 31 is hereby further amended by striking out section 48, as most recently amended by chapter 536 of the acts of 1980, and inserting in place thereof the following section:-

Section 48. All offices and positions in the official service of the commonwealth shall be subject to the civil service law and rules unless expressly exempted by this chapter or other law. Positions in the labor service of the commonwealth shall be subject to the civil service law and rules in the metropolitan district commission; executive office for administration and finance; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Framingham; labor service employees in the Massachusetts Correctional Institutions at Walpole, Concord and Norfolk who have prisoners under their charge; department of public utilities; department of public works, except as provided in this section; department of revenue; division of employment security; laborers in the department of public safety; labor service employees in the division of conservation services and full-time conservation helpers employed on a year-round basis, and conservation skilled helpers in the department of environmental management; tree climbers employed by the department of environmental management; registry of motor vehicles; civil defense agency; department of commerce and development; department of community affairs; department of public welfare; Massachusetts Bay Transportation Authority police department; department of youth services.

Offices and positions in the service of cities and towns shall be subject to the civil service law and rules as provided by sections fifty-one, fifty-two, and fifty-three.

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The following shall be exempt from the civil service law and rules, unless expressly made subject thereto by statute:

City and town managers and assistant city or town managers, and administrative assistants, secretaries, stenographers, clerks, telephone operators and messengers connected with the offices of city councils, town councils, mayors, city managers, town managers and selectmen.

Clerical employees in the registries of probate of all counties.

Confidential secretaries and administrative assistants in municipal light commissions.

Counsels, attorneys-at-law, including attorneys designated as counsel or counsellors-at-law, city solicitors, assistant city solicitors, town counsels and assistant town counsels.

Directors of divisions authorized by law in the departments of the commonwealth.

Election officials, including registrars of voters.

Employees of the treasurer and collector of taxes of any city or town.

Executive directors of councils on aging.

Heads of departments, members of boards and commissions, chaplains employed as such, members of authorities and other officers appointed by the governor or whose appointment is subject to approval by the governor, and heads of municipal departments.

Industrial relations adjusters within the board of conciliation and arbitration in the department of labor and industries.

Judges and officers and employees of the judicial branch.

Laborers and chauffeurs employed in the state department of public works between October thirty-first and April fifteenth for the removal of snow from and the sanding of the highways and airports of the commonwealth and work incidental thereto, provided that such employment in each case does not exceed a total of ninety days within that period and that regular employees are not available to perform such work; and such temporary employees in such department as required during and following a disaster or period of extreme danger when and as authorized by the governor, but not to exceed ninety days. Preference shall be given to veterans in making appointments and employing persons under the provisions of this paragraph.

Legislative counsel in cities or towns.

Legislators and officers and employees of the legislative branch.

Officers elected by popular vote and persons appointed to fill vacancies in elective positions.

Officers, noncommissioned officers and enlisted men in the military or naval services of the state.

Officers, secretaries and employees of the office of the governor and executive council, lieutenant governor, state secretary,

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state treasurer, state auditor, and attorney general, and employees of the commissioner of banks.

Officers whose appointment or election is by a city council, town council or subject to its confirmation.

Parking meter supervisors, except as provided in sections fifty-one and fifty-two.

Part-time municipal employees serving in the positions of electrical inspectors, wiring inspectors, plumbing inspectors, gas inspectors, sealer of weights and measures and assistant sealer of weights and measures.

Physicians, registered nurses, graduate nurses, licensed practical nurses and student nurses in institutions and hospitals unless federal standards for a merit system of personnel administration apply.

Police and fire commissioners and chief marshals or chiefs of police and of fire departments, except as provided in sections fifty-one and fifty-two.

Professional librarians and subprofessional librarians whose duties require that they have certificates issued by the board of library commissioners, and pages employed in libraries on a part-time or intermittent basis who are day or evening high school or day or evening college students.

Public school ice skating rink managers.

Public school teachers and administrators whose duties require the possession of a teacher's certificate.

Regional directors in the department of social services.

Seasonal positions.

Shellfish constables or deputy shellfish constables.

Student interns employed by municipal police departments while attending degree granting institutions of higher learning, and one staff assistant employed by each department for each one hundred thousand residents or portion thereof, not to exceed five.

Students who are employed part-time in a school department or educational institution which they are attending; and student interns assigned to any agency under an agreement authorized by law with an educational institution or foundation.

Superintendents and assistant superintendents of charitable institutions unless federal standards for a merit system of personnel administration apply.

Teachers in the department of correction whose duties require the possession of a teacher's certificate.

Two employees of the city clerk of any city and two employees of the town clerk of any town.

Such other officers and employees as are by law exempt from the civil service law and rules.

SECTION 22. Said chapter 31 is hereby further amended by

Analysis

SECTION 22

PRIOR LAW: None.

EFFECT OF CH. 767: Amends Chapter 31 of the General Laws by inserting a new Section 48A, which directs the Personnel Administrator to establish a career management service program for state managerial employees. The Administrator shall, after consultation with the Secretariats of the Participating agencies and after at least one public hearing, establish procedures regulating the designation, selection, recruitment, and classification of positions for participation in the program. The Administrator may, at the request of the Secretary, designate positions within each agency as a career management service position, provided that not more than 6 per cent of the total authorized positions in any Secretariat may be eligible for the program. Of the positions which are authorized for participation in the career management service program, not more than 30 per cent of such positions may be filled by original appointments. (See Section 27 for the outline of basic rights and protection of career management service employees.)

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inserting after section 48 the following section:-

Section 48A. (1) The administrator shall establish a career management service program for state service. In pursuance of such responsibility as to the career management service, and following consultation with the secretaries of the several executive offices and after at least one public hearing, the administrator (a) shall establish and, from time to time thereafter, amend procedures regulating the designation, classification or reclassification of positions as career management service positions; (b) shall establish and, from time to time thereafter, amend procedures regulating the recruitment, selection, and placement of persons in career management service; (c) shall establish and, from time to time thereafter, amend policies, procedures and regulations related to the compensation and working conditions of persons employed in career management service positions.

(2) The administrator may at the request of the secretary, designate positions within each secretariat and its agencies as career management positions; provided that no more than six per cent of the total authorized positions in any secretariat and its agencies shall be so designated.

(3) The administrator shall designate a position as a career management position if:

(a) the position is not required to be filled through appointment by the governor; and (b) the position is one in which an employee: (i) directs the work of an organization unit; or (ii) is held accountable for the success of one or more specific programs or projects; or (iii) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals; or (iv) supervises the work of employees other than personal assistants; or (v) otherwise exercises important policy-making, policy-determining, or other management functions; and (c) (i) the position is classified as managerial in accordance with chapter one hundred and fifty E; or (ii) the incumbent and representative of the collective bargaining unit of the commonwealth in which the position's incumbent is or would be a member, supports the secretary's request, or (iii) the incumbent serving in the position has been previously designated managerial by agreement of the parties.

(4) If, at that time, a position is designated as a career management service position, it is filled by an incumbent who has acquired rights in that position pursuant to section nine A of chapter thirty or section forty-one of chapter thirty-one, the incumbent may choose to: (a) join the career management service program; or (b) continue to serve in that position in accordance with the provisions of this chapter.

(5) The selection of persons to fill positions in the career

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management service shall not be subject to any other section or provisions of chapter thirty-one, section nine of chapter thirty, chapter one hundred and fifty E or any other laws that would otherwise pertain to appointing authorities in filling said positions.

(6) Persons shall be certified as eligible for appointment to career management positions by meeting standards which shall be established by the administrator in conjunction with the secretary which establishes that said person has: (a) demonstrated management experience; or (b) successful participation in a management development program approved by the administrator; or (c) potential for successful performance as a career manager.

(7) No more than thirty per cent of the career management service positions in any secretariat shall be filled by original appointment; provided, however, that the administrator may approve additional original appointments upon the written request of the appointing authority.

(8) The administrator shall file annually with the house and senate committees on ways and means a listing of all positions designated as career management service positions.

(9) Following original appointment to the career management service, a career service appointee shall serve a probationary period of one year. It shall be further provided that within ninety days after appointment, the career management service appointee may voluntarily return to the civil service position held immediately prior to appointment to the service without loss of seniority or other rights. Following the initial ninety days after appointment but before the end of the one year probationary period, a career appointee removed for reasons other than misconduct, neglect of duty or malfeasance shall be entitled to be certified for appointment to a civil service position similar to the position held previously from a reemployment list, ahead of any individual who is to be certified for such appointment based on the results of an open and competitive examination.

(10) Each agency shall, in accordance with standards set by the administrator, develop a performance appraisal system for career management service employees. The system shall be based upon critical elements of the position and designed to: (a) permit the accurate evaluation of performance; (b) provide for systematic appraisal of performance; (c) encourage excellence in performance; and (d) provide means of making decisions regarding retention, promotion, compensation and other personnel actions.

The administrator shall approve the performance appraisal system of the agency for members of the career management service if he is satisfied that the system the agency develops meets his standards and provides for the evaluation of, but not limited to, the following critical areas: (a) improvement in

Analysis

SECTION 23

PRIOR LAW: Section 69 of Chapter 31 of the General Laws provides that each appointing authority shall file, within seven days after receipt of a written request from the Civil Service Commission or the Personnel Administrator, a report containing the names of all persons who have been employed by such authority and who have rendered services during the calendar month immediately preceding the date of submission of such request.

EFFECT OF CH. 767: Amends Section 69 of Chapter 31 of the General Laws by striking out the existing requirement that the appointing authority file with the Civil Service Commission monthly requests on the employee working for the appointing authority.

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efficiency, production and quality of work; (b) cost efficiency; (c) timeliness of performance; (d) other independent indications of the quality or performance of these employees for whom the career manager is responsible; and (e) meeting affirmative action goals and requirements for equal employment opportunities.

(11) All career management service employees shall be so appraised at least once a year and no more than two times a year. Each performance appraisal system developed by the agency and approved by the administrator shall provide for summary ratings of levels of performance, as follows: (a) one or more fully successful levels, (b) a minimally satisfactory level, and (c) an unsatisfactory level.

Based upon summary ratings, a career management service employee's salary shall be set for a period of one year, in accordance with the salary schedule established for the program by the administrator, and that is subject to the governor's approval.

(12) Personnel actions for those in the career management service programs, except for dismissal for reasons of misconduct, malfeasance, or neglect of duty, shall be based upon a performance appraisal system. These personnel actions shall include, but not be limited to: retention in the program, promotion, and level of compensation.

(13) A career management service appointee may not appeal any appraisal rating under this chapter.

(14) Any career management service employee who: (a) receives an unsatisfactory rating may be reassigned or transferred within the service; (b) receives two less than successful ratings in a three year period or two unsatisfactory ratings in a period of five years may be removed from the program and be eligible for reemployment, as provided in subsection (9).

SECTION 23. Said chapter 31 is hereby further amended by striking out section 69, as appearing in section 11 of chapter 393 of the acts of 1978, and inserting in place thereof the following section: -

Section 69. Every appointing authority shall file, within seven days after the receipt of a written request from the administrator, a report containing the names of all persons who have been appointed or employed by such authority, and have received pay or rendered bills for services or labor performed during the calendar month immediately preceding the date of submission of such request. Such report shall be filed with the administrator and with the state auditor, in the case of the state, and with the auditor or officer responsible for auditing the accounts of such appointing authority, in the case of a city or town.

Such report shall be in a form prescribed by the administrator, shall be made under penalties of perjury and shall contain the following information: (1) the full name of the person ap-

Analysis

SECTION 24

PRIOR LAW: None.

EFFECT OF CH. 767: Establishes a new Chapter 31A in the General Laws creating a local option provision which provides for the decentralization of the existing civil service functions to the various cities and towns of the Commonwealth. Chapter 31A outlines the basic merit system principles which each municipality must be in conformity with and provides for the method of acceptance for inclusion under this new personnel statute. The new Chapter 31A also:

- a) Establishes the general personnel provisions which must be provided for in the local personnel by-law.
- b) Requires that a community establishing a decentralized system provide for the appointment of a local personnel director.
- c) Requires the creation of a Local Merit Appeals Board (LMAB) to act as an appeals board on local merit system issue.
- d) Allows the existing civil service employees to retain their existing appellate rights to the Civil Service Commission.
- e) Requires the Department of Personnel Administration conduct regular performance audits for communities which create decentralized systems.
- f) Requires the Department of Personnel Administration provide for technical assistance to decentralized systems.
- g) Requires the Department of Personnel Administration continue to provide examinations for public safety positions.

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pointed or employed or who rendered a bill for services or labor; (2) a brief description of the nature of the position of such person and of the services or labor which such person has actually performed during such month; (3) for a state position, the title of the position of such person as stated in the payrolls of the appointing authority and for a position in a city or town, either the title of the position authorized by the department, or the title authorized by the appointing authority; (4) the regular salary or wage of the position; (5) the date of employment; and (6) all payments of any kind made to the appointee during said month. Such appointing authority shall not be required to file more than one such report in any month. The report shall be filed with the state auditor, and with the administrator and shall be open to public inspection.

The supreme judicial court, by mandamus or other appropriate remedy in law or equity, may compel any such appointing authority to comply with this section upon suit or petition of the administrator.

Any appointing authority who willfully refuses to comply with this section shall be punished by a fine of not less than one hundred dollars.

SECTION 24. The General Laws are hereby amended by inserting after chapter 31 the following chapter:-

CHAPTER 31A.

MUNICIPAL PERSONNEL SYSTEMS.

Section 1. Any city or town subject to civil service law as provided in chapter thirty-one, or by special law, may exercise the option of establishing a decentralized personnel system and may become exempt from the provisions of chapter thirty-one or special law, provided that such city or town complies with the conditions provided hereinafter.

Local personnel systems developed pursuant to this chapter shall be consistent with accepted merit principles and each municipality shall include in its personnel ordinance or by-law a statement of said principles. Accepted merit principles shall include, but shall not be limited to:

(a) the recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment;

(b) providing just compensation for all employees;

(c) providing training and development for employees, as needed, to assure the advancement and high quality performance of such employees;

(d) retaining employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(e) assuring fair treatment of all applicants and employees in

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all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and;

(f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

Section 2. In this chapter, the following words and phrases shall have the following meaning, unless the context requires otherwise:-

"Administrator", the personnel administrator of the department of personnel administration.

"Civil service law", chapter thirty-one and the rules promulgated pursuant to that chapter.

"Civil service position", an office or position, appointment to which is subject to the requirements of chapter thirty-one.

"Commission", the civil service commission of the commonwealth.

"Department", the department of personnel administration.

"Local appointing authority", any person, board, or commission with the power to appoint or employ personnel in municipal service positions.

"Local chief executive officer", in a city or town with a manager form of government, the manager of that municipality; in other cities, the mayor; and in other towns, the board of selectmen.

"Local merit appeals board", a three member board established under section seven to act on appeals established under sections seven and eight and to act on appeals involving alleged violations of basic merit principles.

"Municipality", a city or town in the commonwealth.

"Municipal employee", any person compensated by a municipality for personal services performed for the municipality.

"Municipal personnel office", the office established under section six, charged by local ordinance with administering the municipal personnel system.

"Personnel director", the administrator of a municipal personnel system.

Section 3. Any municipality exercising the local option contained in section one shall, upon the recommendation of the chief executive officer or by a majority vote of the executive officers of a city or town, and after conducting a public hearing, adopt a personnel ordinance or by-law in accordance with the provisions of section four. Upon the majority vote of those voting on the referendum question, the application of chapter thirty-one, shall be rescinded with the following exceptions:

(a) all testing for municipal public safety positions shall be

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administered by the department of personnel administration in accordance with the provisions of chapter thirty-one;

(b) employees serving in positions subject to the provisions of chapter thirty-one on the effective date of this act, and their successors, may appeal disciplinary actions, decisions that the examination fairly tested the knowledge, skills and abilities required to perform the primary or dominant duties of the position for which the examination was held and the results of performance evaluations to the civil service commission pursuant to section eight. The said commission shall hear such appeals in accordance with the provisions of said chapter thirty-one; and

(c) the provisions of chapter thirty-one contained in sections twenty-five, twenty-six and twenty-eight providing for veterans' preference.

Section 4. Each municipality rescinding their acceptance of chapter thirty-one, shall adopt a personnel ordinance consistent with the provision of section three, which shall also provide for, the following:

(a) A statement of accepted merit principles pursuant to section four;

(b) The appointment of a personnel director, pursuant to section six;

(c) The specifications of those officials and employees who shall be covered by the ordinance or by-law and those who shall be exempt from all or any part of its provisions. All positions covered by civil service at the time of the rescission exempting department heads shall also be covered by said ordinance or by-law.

(d) Provisions establishing the structure and governing the operation of the personnel system, including but not limited to:

(1) The recruitment of candidates for positions which assures open competition with emphasis on attracting candidates from groups that are underrepresented in the work force.

(2) The selection of candidates for appointment to positions in a manner which emphasizes to the maximum extent possible, job related criteria.

(3) The selection of candidates for temporary or provisional positions shall only be made on an emergency basis.

(4) Establishing provisions which provide for promotions to higher level positions, including systematic methods, which provide for:

(a) improved opportunities for upward mobility through training, education and career development assignments, and

(b) open competition among qualified applicants.

(5) Provide for probationary appointments of new employees and probationary promotions of current employees.

(6) Establishing a classification plan for all positions, in-

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cluding the establishment of position classes, the description of duties and responsibilities of each position, and a statement of the minimum qualifications for each position.

(7) Establishing training and development programs which increase proficiency for employees in their present positions and preparing them for higher level positions.

(8) Provides for the training and development, including programs for all employees, that would increase proficiency in their current positions and prepare them for higher level positions.

(9) Establishes a performance evaluation system to be implemented whenever the development and maintenance of such a system is deemed practical by the municipality; provided, however, that in the establishment of such a program, it shall be developed in conjunction with the representatives of labor.

(10) Outlines disciplinary actions and appeals, including procedures regulating the suspension, demotion, and separation of employees, with the right to appeal any such action through an impartial process.

(11) In the case of reduction-in-force, seniority as provided in section thirty-nine of chapter thirty-one, shall be the sole criteria in determining the order of layoffs.

(12) Establishes standards of conduct, including prohibitions against political interference in the personnel system and an assurance of the right of employees to pursue legitimate involvement in the political system.

(13) Establishes a centralized personnel record keeping system in the office of the personnel director.

Section 5. At least one hundred and twenty days prior to the vote rescinding the provisions of chapter thirty-one, a city or town shall submit a copy of a proposed ordinance or by-law to the administrator who shall approve, disapprove or propose amendments to said ordinance or by-law on the basis of completeness, consistency and conformity in concept with accepted merit principles. The administrator's substantive review shall be limited to areas presently subject to civil service law, the general provisions of section five and conformity of the ordinance or by-law with basic merit principles outlined in this chapter. The administrator shall, within ninety days, either approve the proposed ordinance or by-law, propose amendments to the ordinance or by-law, or disapprove such ordinance or by-law if it is not consistent with the general provisions of this chapter.

In the event the administrator does not approve the proposed ordinance or by-law at least sixty days prior to proposed vote of the rescission, the provisions of chapter thirty-one shall remain in effect and such vote of the rescission shall be postponed until the next regular city or town election.

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Following adoption, the ordinance or by-law shall be submitted for review to the administrator only in those instances where the said ordinance or by-law shall have been amended by the local legislative body. The criteria for review of any amendment shall be the same as those for initial approval of this ordinance or by-law; and, if the administrator shall fail to act within thirty days of the receipt of the adopted ordinance or by-law, it shall be considered approved.

The personnel administrator shall provide necessary technical assistance to cities and towns choosing to make the transition to a local system.

The question on the rescission of chapter thirty-one and attendant civil service rules and the acceptance of this chapter shall be printed on the official ballot to be used at a regular municipal election, in substantially the following form:

QUESTION:

Shall the city or town of _____ rescind the applicability of chapter 31 of the General Laws and accept the applicability of chapter 31A of the General Laws?

If a majority of such voters therein vote in the affirmative, the provisions of chapter thirty-one shall be rescinded and the provisions of this chapter shall be accepted; provided, however, that such rescission and acceptance shall take effect upon the adoption of the ordinance or by-law, approved by the personnel administrator, but not otherwise; and provided, further, that the provisions of section thirty-two of chapter forty shall not apply to any such by-law in a town.

Section 6. Within one hundred and eighty days following the effective date of a local ordinance or by-law, the municipality shall appoint a personnel director qualified for the position by reason of previous education, training, or experience.

Said personnel director may be a professional city manager, town manager, executive secretary, or a local official with equivalent experience, or a person appointed by a group of municipalities to serve as a personnel director on a regional basis. The personnel director shall have full authority to administer such local personnel system and shall have direct access to the chief executive of the municipality. The duties of the personnel director shall be prescribed by ordinance or by-law.

Section 7. (a) Any municipality which creates a decentralized personnel system will be required to establish a local merit appeals board. The board shall consist of three members, of which one member shall be appointed by the local chief executive officer, as defined in section two, to represent management, one member shall be elected by the employees within the community and the third member shall be selected by the other two members. The neutral member shall be an impartial chairman who shall

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have expertise in personnel administration and labor relations. The members of the board shall serve for three-year terms and shall be reimbursed by the municipality for the necessary expenses incurred in the performance of their official duties; provided, however, that the chairman may be further compensated for services provided to the board. The primary role of the board shall be as an oversight and appellate board on merit principle issues.

(b) The authority of the board shall include but shall not be limited to:

(1) hearing appeals in cases of suspensions, demotions or dismissals;

(2) hearing appeals in cases of lay-offs and transfers, from one department to another; provided, however, that such board may only issue an order if the employee can show bad faith on the part of the municipal employer;

(3) hearing appeals on selections, promotions, and any other personnel actions as the municipality may provide for in the personnel ordinance or by-laws; provided, however, that no punishment duty shall be imposed on any police officer or firefighter subject to the provisions of this chapter unless said police officer or firefighter assents thereto; and

(4) upon the request of the personnel director, to advise on any personnel matters.

(c) Employees subject to a local merit system established pursuant to this chapter may be suspended, demoted, or dismissed for just cause. If the board, by a preponderance of the evidence, determines that there was just cause for an action taken against such employee it shall affirm the action of the appointing authority, otherwise it shall reverse such action and the employee shall be returned to his position without loss of compensation or other rights provided that if the employee establishes by a preponderance of the evidence that the said action was based upon harmful error in the application of the appointing authority's procedure or upon an error of law or upon any factor or conduct on the part of the employee not reasonably related to the fitness of the employee to perform in his position the said abolition, disciplinary action or discharge or evaluation shall not be sustained and the person shall be returned to his position without loss of compensation or other rights and in the case of an appeal from a performance evaluation, the matter shall be remanded to the appointing authority for action not inconsistent with the findings of the board. The board may also modify any penalty imposed by the appointing authority. Except in the case of an employee subject to the provisions of section eight, the decision of the board shall be final and binding on parties, subject to judicial review.

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(d) The organization, operating procedures, staffing, compensation, and removal procedures of the board shall be determined by the municipality in its personnel ordinance or by-law.

Section 8. Appointing authorities and employees serving in positions subject to the provisions of chapter thirty-one on the effective date of this chapter and their successors, shall have the option to appeal to either the civil service commission or the local merit appeals board, but not both, in the following instances:

(a) a disciplinary action,

(b) a finding that the examination fairly tested the knowledge, skills and abilities required to perform the primary or dominant duties of the position for which the examination was held, or

(c) the results of a performance evaluation.

An employee covered by a collective bargaining agreement may continue to exercise any grievance arbitration procedure in said agreement and upon the election of such option by the employee, it shall be the exclusive remedy for resolving such matters. In any disciplinary action or discharge where the substance of such action was based on a performance evaluation the validity of which has been previously determined, the substantive matters involved in the evaluation shall not be open to redetermination by the commission or the board.

Section 9. The department of personnel administration shall conduct semi-annual performance audits of the merit systems of each municipality exercising the local option under this chapter during the first year, and annually thereafter.

Special audits may also be requested by a three-fifths vote of the local legislative body or by thirty per cent of the total number of employees subject to the local merit system. No such special audit shall be undertaken until the department has conducted a preliminary informal hearing with the parties concerned, and the administrator has determined, based upon the evidence there is substantial noncompliance with the municipal personnel ordinance or by-law.

The results of any audit, whether regular or special, shall be reported to the local appointing authority specifying any deficiencies that may have been found and the suggested corrective action. A copy of the report by the administrator shall be available for public inspection in the offices of the local appointing authority and the department of personnel administration.

Any municipality audited pursuant to this section shall have the right to appeal the results of such audit to the civil service commission, which may uphold, alter, or disqualify the results of said report, subject to judicial review.

If a municipality fails to correct any deficiencies specified in

Analysis

SECTION 25

PRIOR LAW: None.

EFFECT OF CH. 767: Directs the Personnel Administrator to establish a career management service program, in accordance with the provisions of Section 27 of this Act, in the Department of Personnel Administration, the Department of Public Health, and the Environmental Affairs Secretariat, on or before January 1, 1982. The Personnel Administrator shall be charged with general supervision and oversight of the career management service program and shall, at least once every six months, file a written report with the Special Commission on Civil Service on the progress of the program and shall make recommendations for improvements, expansion, or discontinuance of the program.

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an audit report, the personnel administrator may take such action as may be necessary to insure compliance, including but not limited to, voiding past personnel actions, seeking a court order to insure compliance, or assuming temporary or permanent supervision of the local merit system with the municipality bearing the full cost of such supervision.

Section 10. Nothing in this chapter shall interfere with the right of certified employee organizations to bargain with the municipality over subjects permitted by chapter one hundred and fifty E; provided, however, that the authority of any municipal agency or its agents to determine selection procedures at both the entry and promotional levels, to conduct and grade merit examinations, to rate candidates based on job-related criteria and establish eligible lists, to make initial appointments or promotions to positions covered by local personnel ordinances or by-laws or any other section of chapter thirty-one which is not subject to bargaining under paragraph (d) of section seven of chapter one hundred and fifty E, prior to the effective date of this chapter, shall not be subject to collective bargaining.

Section 11. Revocation of the acceptance of this chapter by a city or town shall be in the same manner as its acceptance. Upon revocation, said city or town shall be subject to the provisions of chapter thirty-one of the General Laws to the same extent as it was immediately prior to its acceptance of this chapter.

SECTION 25. The personnel administrator shall not later than January first, nineteen hundred and eighty-two, establish a career management service program in accordance with the provisions of section twenty-two of this act. The career management service program will begin operating in the department of personnel administration, the environmental affairs secretariat and the agencies of such secretariat and the department of public health. The administrator shall be charged with the general supervision and oversight of the career management service program. At least once every six months the administrator shall file a written report with the special commission on civil service established under chapter ten of the resolves of nineteen hundred and seventy-nine and extended by chapter three of the resolves of nineteen hundred and eighty on the progress of this program and shall make recommendations for improvements, expansion or discontinuance of such program.

SECTION 26. Notwithstanding any special or general law to the contrary, the personnel administrator shall within sixty days of the effective date of this act, establish an examination procedure for the certification of provisional employees, as defined in section one of chapter thirty-one of the General Laws, to permanent positions within the official service of the commonwealth and cities and towns of the commonwealth.

Analysis

SECTION 26

PRIOR LAW: None.

EFFECT OF CH. 767: Authorizes the Personnel Administrator, within 60 days of the effective date of this Act, to establish an examination procedure for the purpose of certifying existing provisional employees to permanent positions within the cities and towns of the Commonwealth. The Administrator shall determine the form, method, and subject matter for these examinations. Under the provisions of the program, all provisional employees who pass the examination and who have served as provisional employees for at least six months immediately prior to June 1, 1981 shall be certified for a permanent appointment.

SECTION 27

PRIOR LAW: None.

EFFECT OF CH. 767: Directs the Personnel Administrator, in accordance with the provisions establishing a performance evaluation system outlined in Section 16 of this Act, to commence the evaluation program for state managerial personnel on or before January 1, 1982, for non-managerial state employees on July 1, 1982 and for all municipal civil service employees on or before January 1, 1983.

SECTION 28

PRIOR LAW: None.

EFFECT OF CH. 767: Provides that, notwithstanding any special or general law to the contrary, if there is a conflict between provisions of this Act and the terms of any existing collective bargaining agreement, over subjects which are within the scope of bargaining contained in Section 6 of Chapter 150E, the terms of the collective bargaining agreement shall supercede any conflicting provisions of this Act.

SECTION 29

PRIOR LAW: None.

EFFECT OF CH. 767: Establishes a transition section, whereby all personnel action implemented in accordance with the Civil Service Law prior to the effective date of this Act, shall be completed in accordance with the prior law or until all of the parties' previous rights have been exhausted.

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The administrator shall determine the form, method and subject matter for such examination procedure for the certification of such provisional employees. Upon completion of the examination process, the administrator shall certify any employee who served in a civil service position as a provisional employee for a period of at least six months immediately prior to June first, nineteen hundred and eighty-one or any employee who has previously passed a civil service examination and is now serving provisionally without interruption of service for more than two years, and who passes such examination, for a civil service appointment to such position; the appointing authority shall appoint from said certification prior to the appointment from any other source; provided, however, nothing contained in this section shall grant permanent status to any provisional employee who has taken an examination conducted in accordance with section sixteen of chapter thirty-one of the General Laws for which an eligible list is presently established.

Within ninety days of the effective date of this act, the personnel administrator shall request that all state appointing authorities submit a list of temporary positions within their jurisdiction to the department and an explanation as to why these positions should not be considered permanent. The administrator shall within ninety days of receipt of such information, file with the chairman of the joint committees on ways and means, recommendations as to whether such temporary positions ought to either be abolished or be made permanent positions.

The provisions of this section shall not apply to positions in the police and fire service.

SECTION 27. The personnel administrator in accordance with the provisions outlined in section six A of chapter thirty-one of the General Laws shall commence a performance evaluation program for all state managerial personnel on or before January first, nineteen hundred and eighty-two; for all state non-managerial personnel on or before July first, nineteen hundred and eighty-two; and for all municipal civil service employees on or before January first, nineteen hundred and eighty-three.

SECTION 28. Notwithstanding any special or general law to the contrary, if there is a conflict between the provisions of this act and a collective bargaining agreement in existence on the effective date of this act, reached by the respective employer and exclusive representative, the subjects of which are within the scope of bargaining contained in section seven of chapter one hundred and fifty E of the General Laws, the collective bargaining agreement shall prevail.

SECTION 29. No provision of this act shall affect any of the following:

Analysis

SECTION 30

PRIOR LAW: The Special Commission on Civil Service established under Chapter 10 of the Resolves of 1979 and continued under the provisions of Chapter 3 of the Resolves of 1980, unless it is further revived and continued, expired on December 31, 1980.

EFFECT OF CH. 767: Extends the Special Commission on Civil Service established under Chapter 10 of the Resolves of 1979 until December 31, 1983.

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(1) any application, requisition, or examination announcement or poster made prior to the effective date of this act;

(2) the validity of any eligible list or the certification of names from any eligible list in existence on or before the effective date of this act;

(3) the establishment of any eligible list based upon an examination held on or before the effective date of this act and any appointment or promotion based thereon;

(4) any appeal, hearing or other proceeding or matter pending on or before the effective date of this act;

(5) any rule in force on the effective date of this act;

(6) the holding or marking of any examination announced or posted on or before the effective date of this act;

(7) any action taken pursuant to chapter thirty-one of the General Laws as in force immediately prior to the effective date of this act.

SECTION 30. That the special commission on civil service, established by chapter ten of the resolves of nineteen hundred and seventy-nine, and most recently revived and continued under the provisions of chapter three of the resolves of nineteen hundred and eighty. is hereby revived and continued until the last Wednesday of December, nineteen hundred and eighty-three.

Approved January 4, 1982.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Seventy-^{nine}

RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE CIVIL SERVICE LAW AND VARIOUS OTHER MERIT SYSTEMS OF THE COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS.

RESOLVED, That a special commission, to consist of three members of the senate, the chairman of which shall be the senate chairman of the Joint Committee on Public Service, eight members of the house of representatives, the first named member of whom shall be the house chairman of the Joint Committee on Public Service, the personnel administrator or his designee, and nine persons to be appointed by the governor, one of whom shall be a member of the civil service commission, one of whom shall be a member of Council 93 American Federation of State, County and Municipal Employees AFL-CIO, one of whom shall be a member of Local 509 Service Employees International Union, one of whom shall be a member of the Professional Firefighters of Massachusetts, one of whom shall be a member of the International Brotherhood of Police Officers I.A.F.E.O., one of whom shall be a member of the Massachusetts Taxpayers Foundation, one of whom shall be a member of the Massachusetts League of Women Voters and two of whom shall be representatives of the Massachusetts Municipal Association, is hereby established for the purpose of making an investigation and study of chapter thirty-one of the General Laws and the various merit systems of the commonwealth and its political subdivisions, various civil service laws and merit systems of various other states and the federal government, with a view towards establishing a merit and performance based system for the commonwealth and its political subdivisions and to review any other such matters as said commission determines appropriate.

House of Representatives, July 19, 1979.

Vincent J. Piro

Passed,

Acting
Speaker.

In Senate, July 19, 1979

Passed,

William J. Bulger

, President.

July 23

, 1979.

Approved,

Edward J. King

Governor.

Special Commission on Civil Service

Senator Samuel Rotondi
Chairman

Senator Sharon M. Pollard
Vice Chairman

Representative David B. Cohen

Representative Dennis J. Duffin

Former Senator John H. Fitzpatrick

T. Dustin Alward

Lois Balfour

Joseph L. Delorey

Mayor Theodore E. Dimauro

Joseph M. Duffy

Patricia G. Facey

Representative Nicholas J. Buglione
Chairman

Representative Thomas R. Lussier
Vice Chairman

Representative Haden G. Greenhalgh

Representative Andrew S. Natsios

Representative Thomas P. White

Congressman Barney Frank

John W. Hanson

Richard T. Leary

David M. Marchand

Amelia Miclette

Susanne E. Tompkins

Peter P. Wright

Opposite: The Resolve which established the Special Commission on Civil Service.

